

Supreme Court of Kentucky

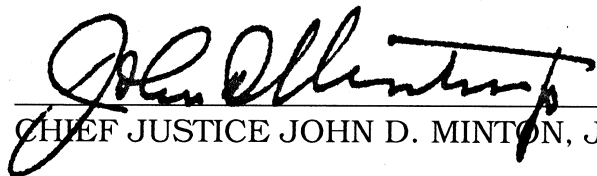
ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND
PROCEDURE FOR THE 6TH JUDICIAL DISTRICT, DAVIESS
DISTRICT COURT**

Upon recommendation of the Judges of the 6th Judicial District, Daviess Circuit Court, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the Daviess District Court are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this Court.

Entered this the 9th day of May 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

6th DISTRICT RULES OF COURT
PRACTICE AND PROCEDURE
COMMONWEALTH OF KENTUCKY
DAVIESS DISTRICT COURT
(a non-family court jurisdiction)

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RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE

101. Preface

These are the Uniform Rules of Court Practice and Procedures of the Daviess County District Court. These Rules supplement the Kentucky Rules of Criminal Procedure (RCr), the Kentucky Rules of Civil Procedure (CR), and the Kentucky Family Court Rules of Procedure and Practice (FCRPP). As Daviess County is not serviced by a Family Court, for a full review of the Local Rules of Daviess County relating to the practice of juvenile and family law, the Local Rules of the Daviess Circuit Court should also be considered as a supplement to these Rules regarding matters where the District and Circuit Courts have concurrent jurisdiction. These Rules shall be applicable to civil and criminal, adult and juvenile cases unless otherwise noted. These Rules shall be the only operative Court Rules of the Daviess District Court and all previous Rules, amendments, and general orders in conflict are hereby rescinded.

102. Effective Date

The effective date of these Rules shall be thirty (30) days after approval by the Kentucky Supreme Court.

103. Citation

These Rules shall be cited as "RDDC".

104. Court Organization and Assignment of Cases

- A. The Daviess District Court shall operate in three (3) divisions, namely Division I, Division II, and Division III, and each shall hear cases in all matters over which the District Court has been given jurisdiction by the General Assembly where there is no sitting Family Court.
- B. Each Judge may preside over, hear, and determine any case or question in the other divisions when so agreed between the Judges, or when the Judge of one division is not available.
- C. Each Judge may alter the regular docket schedule where required to facilitate the effective administration of justice.
- D. **Assignment of Cases:** The Daviess Circuit Court Clerk shall divide all cases among the three divisions randomly and as equally as possible. In juvenile, status/delinquency, paternity and domestic violence cases, whenever possible and in order to facilitate the concept of one-family/one-judge, any subsequent actions regarding

the same litigants (including criminal assault cases) shall be assigned to the original division. Specific matters relating to the assignment of individual types of cases are set forth below, to be adhered to whenever possible.

- 1) **Paternity and Dependency/Neglect/Abuse ("d/n/a"):** The Daviess Circuit Court Clerk, Juvenile Division ("Juvenile Clerk") shall assign all petitions involving the children of the same mother to a single division, and any subsequent petitions involving the same children or their siblings shall be assigned to that same division.
- 2) **Status/Delinquency:** The Juvenile Clerk shall assign all petitions involving co-defendants to the same division. If one co-defendant has previously had either a d/n/a or status/delinquency petition in this county then all co-defendants shall be assigned to that division. If multiple co-defendants have pre-existing cases before different divisions then the new status/delinquency petitions shall be assigned to the Division with the active or the most recent past petition. Where a child, due to co-defendants, has had a Petition transferred to a different Division, after resolution of that case the Juvenile Clerk shall assign any future cases to the original division.
- 3) **Domestic Violence:** When a Petition for an Emergency Protective Order is received, the Juvenile Clerk shall randomly assign the case to a Division of the Daviess District Court unless: the parties have a previous domestic violence action; the parties have an existing action before the Daviess Circuit Court for divorce, custody, or support; the parties have an existing paternity or juvenile file already assigned to a Division of the District Court; or the parties have a pending assault case already assigned to a Division of the District Court. If any of the aforementioned circumstances exists, then, in order to facilitate the goal of one-family/one-judge, the Juvenile Clerk shall assign the Petition to that Division or Circuit having the pre-existing or pending case.
- 4) **Criminal:** The Daviess Circuit Court Clerk, Traffic and Criminal Division ("Criminal Clerk") shall assign Co-Defendants' cases to the same division. Where a defendant is charged with Assault Domestic Violence the criminal case and any domestic violence action or d/n/a action involving the same parties shall be assigned to the same division.

- 5) **Probate:** Where there has previously been a probate case, the Daviess Circuit Court Clerk, Probate Division ("Probate Clerk") shall assign any subsequent actions relating to Trusts, Wills, and Disability Proceedings involving the same estate or parties to the originally assigned division.

105. Holidays and Courthouse Closure

In addition to the holidays designated annually by the Administrative Office of the Courts ("AOC"), the Morton J. Holbrook Judicial Center shall be closed on the Friday of the Owensboro Barbeque Festival as the city of Owensboro closes all streets surrounding the courthouse and blocks the entrance to the judicial center parking lot for the festival, thereby making access to the judicial center impractical for both employees and the public.

In the event of disaster or inclement weather, the decision to close the Morton J. Holbrook Judicial Center is made by the Chief Circuit Court Judge who shall provide an announcement of the closing for broadcast on local television and radio stations.

106. Courtroom Decorum

The Kentucky Bar Association Code of Professional Ethics should be followed by all counsel practicing in Daviess District Court. All lawyers, clerks, judges, parties, witnesses, bailiffs and others in the courtroom should be treated with appropriate consideration and respect.

RULE 2 COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

201. Scheduling of Motions Requiring a Hearing

Unless another Rule directs otherwise, this Rule applies to all types of cases. Other than motions for Withdrawal or Substitution of Counsel; motions for Default Judgment, Summary Judgment or Judgment on the Pleadings; motions to Dismiss for Lack of Prosecution; motions filed by the County Attorney; motions for Contempt in a domestic violence action; motions to Expunge criminal records; and motions for Continuance, any motion requiring a hearing shall be scheduled through the Judge's office.

202. Notice Requirements

Written motions, other than those which may be heard *ex parte*, shall be served by the movant upon the opposing party at least **five (5) days** before the

time specified for hearing unless a different time is agreed upon by the parties, fixed by court order, or determined through any applicable Rule or statute.

203. Appearances and Substitutions

- A. Whenever parties have appeared by counsel, parties may not thereafter on the same criminal case, juvenile case, or the same paternity motion appear *pro se* or retain different counsel, unless an Order of Substitution shall first have been made by the Court after reasonable notice to the current named attorney for the party and to opposing counsel. Until this is done, the authority of counsel of record shall continue for all proper purposes.
- B. Where the Court has appointed counsel, the Court may, in its discretion and in the interest of justice, remove or replace counsel without adherence to the above described procedure. The Daviess Circuit Court Clerk shall send notice to the attorneys and party represented.
- C. When an attorney of record wishes to cease representation of a party, the attorney shall make that request via motion and give appropriate notice to the client and opposing counsel. It shall be the moving attorney's responsibility to see that the client receives notice, and the attorney should be prepared to present proof of this fact to the Court. If the Motion is sustained a copy of the order shall be served on the client and all attorneys of record by the office of the Daviess Circuit Court Clerk.

204. Motions Filed by *Pro Se* Litigants

- A. Motions filed by parties not represented by counsel shall comply with all relevant statutes and rules. Pursuant to FCRPP 1(3), the *pro se* litigant is specifically held to the knowledge of said rules the same as any party represented by counsel. The *pro se* litigant is responsible for obtaining a hearing date from the Judge's office and for serving notice of the motion and hearing date upon opposing parties or counsel. The movant shall be prepared to present proof of service to the Court at the hearing.
- B. If any forms exist to assist self-represented litigants in the filing of motions, including motions to proceed *in forma pauperis* and affidavits of indigency, those can be obtained through the office of the Daviess Circuit Court Clerk. The clerks cannot provide legal assistance and cannot advise a party how to prepare or complete those forms.

RULE 3 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

Domestic Violence Petitions within the jurisdiction of Daviess District Court shall be heard in conjunction with the regular Juvenile Docket scheduled on Mondays, Wednesdays or Fridays, depending upon the Division.

301. Domestic Violence Protocol.

The Uniform Protocol for Domestic Violence Cases and 24 Hour Accessibility Policy for the Sixth Judicial Circuit and District is incorporated herein by reference as if copied and set forth verbatim, and is attached as Appendix A.

302. Mandatory Disclosures.

A person seeking an EPO/DVO shall inform the Daviess Circuit Court Clerk or shall set forth in the petition if there is a pending or existing DVO/EPO, divorce, custody/visitation/support, paternity, or juvenile case whether in this county or not, and set forth whether there is any pre-existing EPO or DVO, or court order relating to custody of the parties minor children. Clerks or other support persons assisting with the filing of the EPO petition should ask the Petitioner for this information.

303. Setting of child support, custody and visitation through Domestic Violence Order:

- 1) If the parties to a domestic violence action have minor children in common, *and* there is no pending order relating to child support, then both parties shall bring to the hearing proof of income consisting of the last three (3) pay stubs, year-to-date earnings statement from employer, or statement of benefits or income received via Social Security, Unemployment, or any other source.
- 2) Any order for child support, custody or visitation entered through a Domestic Violence Order is considered temporary. The parties are advised to seek modification and permanent orders relating to custody, support and visitation of children through the Daviess Circuit Court.

304. Motions to Modify or Dismiss:

- 1) Motions for Modification and Dismissal shall be served upon the opposing party no less than five (5) days before the scheduled hearing.

- 2) Where appropriate for the protection of the parties and any minor children in the home, it is within the Judge's discretion to condition modification or dismissal upon completion of parenting classes, completion of domestic violence counseling or participation in any other necessary service.
- 3) Motions to extend the period of protection offered by a Domestic Violence Order shall be filed and set for hearing before the expiration of the original DVO. That time frame should include a minimum of five (5) days notice upon the Respondent before the hearing.

RULE 4 PATERNITY

401. Motion Practice

- A. **Motions Not Requiring a Hearing:** Motions for wage assignments pursuant to KRS 403.215 and KRS 405.465, appointment of Guardian ad Litem, for Guardian ad Litem fees, and to compel discovery, shall not be placed on the regular docket, but shall stand submitted to the Court unless a written objection and request for hearing is filed within ten (10) days of the date contained in the certificate of service.
- B. **Motions for Default Judgment:** If the Court determines that a hearing is necessary on a Motion for Default Judgment, then a hearing date will be assigned by the Judge.
- C. Motions to modify, suspend, or terminate child support; to determine arrearages accrued on child support orders; and to allocate dependency exemptions, shall be scheduled for conference conducted by the County Attorney's Child Support Division. If resolution cannot be reached through conference, then the matter shall proceed for hearing before the District Court Judge.
- D. **Motions Heard in District Court:** In the paternity case, the District Court Judge assigned to the case shall hear any motions regarding child support and modifications thereto, and motions requesting clarification of previous Orders entered by the Court. The District Court Judge shall also address all Agreed Orders tendered to the Court by the parties to the action.
- E. **Motions to be Filed as a Separate Action:** Except for the matters set forth in RDDC 401D, and pursuant to KRS 406.051(2), the District Court Judge may refer all contested issues concerning

custody, visitation, and related issues to the Circuit Court, to be filed as a separate action before that Court.

402. Filing Fees

- A. Pursuant to FCRPP 14(1), a \$50.00 fee shall be paid by the movant in paternity cases reopened after six (6) months from the entry of the paternity judgment for the purpose of modifying any support, custody or visitation ordered. This does not apply to Title IV-D cases or movants proceeding *in forma pauperis*.
- B. Any petitioner filing in Circuit Court pursuant to RDDC 401E shall not be required to pay filing fees if the petitioner has been found indigent by the District Court in the paternity case within the six (6) months preceding the filing of the Circuit Court action. The petitioner shall provide the Circuit Clerk a copy of the District Court Order at the time of filing.

403. Pretrial Conference

- A. In all cases in which the Respondent files an answer admitting to the paternity of the child, or signs an affidavit of paternity, or the genetic test report contains an inclusionary result, the case may be scheduled by either party for a pretrial conference conducted by the County Attorney's Child Support Division.
- B. The pretrial conference is to explore the possibility of settlement, to simplify the issues and agree upon issues of fact and law to be heard by the Court, and to explore possible stipulations of fact and documents that will avoid unnecessary proof.
- C. The parties may enter into an agreed judgment of paternity and order of support and file the same for approval by the Court without conducting a pretrial conference.

404. Guardians ad Litem

- A. Upon motion or in the discretion of the Court, a Guardian ad Litem ("GAL") may be appointed to represent unmarried infants, persons of unsound mind, adult prisoners, or active military personnel. The appointment shall be made from a list for paternity actions. The list shall be maintained by the Juvenile Clerk. See RDDC 1304.
- B. The Juvenile Clerk shall allow attorneys and GALs representing incarcerated parents in paternity cases to have access to the records of those actions.

- C. The GAL for the putative father who qualifies under A. above shall notify the client of the appointment, inform him of the nature of the proceeding, and of his right to have genetic testing conducted.
- D. Within sixty (60) days of the appointment, the GAL for the putative father who qualifies under A. above shall file an Answer on behalf of the client or a report stating that, after careful examination, the GAL is unable to present a defense. If the GAL fails to report or answer within sixty (60) days, the Court may impose appropriate sanctions upon the GAL and remove the attorney from the appointment list.
- E. Compensation: At the conclusion of the action or proceeding, motions for compensation shall be accompanied by an affidavit from the GAL indicating the statutory basis for the appointment, the hours of service rendered, a brief description of the services rendered and the reasonableness of the fee requested.

405. Permission to Review and Copy Paternity Case Files

The Juvenile Clerk shall allow an attorney to review or copy a paternity file upon the following circumstances:

1. Attorney provides a signed notarized statement from client allowing access;
2. Attorney files a notice of representation with the Clerk; and
3. Attorney signs a statement agreeing that addresses, social security numbers, tax information and personal information contained in the file shall remain confidential.

RULE 5 DEPENDENCY, NEGLECT, AND ABUSE

501. Emergency Custody Orders ("ECO")

- A. **Reporting Requirement:** Pursuant to KRS 620.030, persons seeking an ECO shall contact the Cabinet for Health and Family Services ("CHFS"), local law enforcement, County Attorney or Daviess County Commonwealth Attorney's Office ("Commonwealth Attorney") to report alleged dependency, neglect or abuse, and to seek assistance in securing the child's safety.
- B. **Reasonable Efforts to Prevent Removal of Child From Home:** The Court shall insure the protection of a child where the petition alleges an immediate and ongoing threat of serious harm. Precipitous and unplanned removal of a child from the home is traumatic and difficult to reverse. The Court should remove a child

from the home only if no other reasonable alternative will insure the child's safety.

The Adoption and Safe Families Act ("ASFA") (P.L. 105-89) and Regulations (45 C.F.R. § 1355 et. seq.), require the party or agency petitioning for the removal to provide sworn written testimony to the Judge about recent efforts to assist the family in providing safe and non-disruptive alternatives to protect the child and eliminate the need for removal.

If the petitioning party believes the situation requires investigation, and implementation of alternatives to removal would be imprudent, the petitioner shall provide sworn written testimony of the basis for this belief to the Judge when seeking removal.

- C. **Disclosure Requirement:** Pursuant to FCRPP 19(2): The petitioner **MUST** disclose in writing any pending proceedings relating to the custody of the child, or any existing custody orders whether issued by a Judge of the Commonwealth or another state or country.
- D. **Procedure for Obtaining ECO:**
 - 1) During Regular Business Hours:
 - a. Persons seeking an ECO may obtain the appropriate forms (Affidavit for Emergency Custody and D/N/A Petition) from the Juvenile Clerk. The petitioner shall file the d/n/a petition with the Affidavit for Emergency Custody.
 - b. Upon completion of all required forms, the Juvenile Clerk or notary may acknowledge the forms. The petitioner shall present the completed and acknowledged forms to the Juvenile Clerk, who shall present those forms with an ECO to a District Court Judge.
 - c. The Judge shall sign the ECO if the Affidavit complies with FCRPP 19 and RDDC 601B, and circumstances warrant removal of the child from the home pursuant to KRS 620.060. The Juvenile Clerk shall provide copies to the Affiant, CHFS, and the serving agency. The Juvenile Clerk shall provide the serving agency the following forms with the ECO: Notice and Statement of Rights, and Notice of Emergency

Removal. The original paperwork shall remain with the Juvenile Clerk, who shall file the document.

2) During Non-Business Hours:

- a. Persons seeking an ECO shall contact local law enforcement or 911; that agency will notify the CHFS and/or the County Attorney's or Commonwealth Attorney's on-call representative to review the matter.
- b. CHFS and/or the on-call prosecutor shall consult with the person seeking the ECO and, if necessary, shall assist the petitioner in completing the appropriate forms, and shall swear in the affiant. When possible, the petitioner shall complete both the D/N/A Petition and the Affidavit for Emergency Custody.
- c. Central dispatch, the on-call prosecutor or CHFS representative shall notify the on-call Judge or if not available, any District Judge, of the situation. The Judge shall review the documents in person or via facsimile or electronic transmission. If the Judge determines that the Affidavit complies with FCRPP 19 and RDDC 601B, and that circumstances warrant removal of the child from the home pursuant to KRS 620.060, the Judge shall sign the ECO and provide signed ECO to Affiant and/or the serving agency. The person or agency possessing the original documents shall provide those documents to the Juvenile Clerk no later than 3:00 p.m. on the next business day.

- E. **Appointment of Counsel and GAL:** When the Juvenile Clerk receives the original documents the Juvenile Clerk shall appoint a GAL for the child(ren), and counsel for the person(s) from whose custody the child was removed. The Juvenile Clerk shall notify the appointed attorneys of the date for the Temporary Removal Hearing, and provide them copies of all relevant documents.

502. Petition

All petitions shall be filed in accordance with FCRPP 20 and shall contain:

1. Citations to specific statutes and factual allegations relied upon in asserting the jurisdiction of the Court; and

2. Full information, including addresses, of the child's parents and/or person(s) exercising custodial supervision and control of the child. The Petitioner shall make diligent efforts to locate the child's parents, including absent parents, putative fathers and/or legal guardian. If addresses for the parties cannot be located the Petitioner shall tell the Court the efforts taken to locate the parties and may request the Court appoint a Warning Order Attorney.

503. Effect of Service on Only One Parent/Person Exercising Custodial Control or Supervision

If the record establishes that Petitioner and/or CHFS made diligent efforts to locate and serve the absent parent the Judge may permit the Temporary Removal Hearing or the Adjudication to proceed if the non-custodial parent has not been served in accordance with FCRPP 18(1).

If the case remains on the active docket the Petitioner and/or CHFS shall continue efforts to locate and serve all absent parties.

504. Temporary Removal Hearings

- A. **Scheduling:** The Juvenile Clerk shall schedule the Temporary Removal Hearing no earlier than the day following the filing of the petition to allow service on the parties. To comply with KRS 620.080, the Temporary Removal Hearing may be conducted before any Judge of the Daviess District Court, even if the case is assigned to another division.
- B. The parties shall address these issues at the Temporary Removal Hearing:
 1. Did parents and/or persons exercising custody of the child, if not present, receive appropriate notice?
 2. Is continued removal of the child from the home necessary to protect and insure the child's safety?
 3. Did CHFS make reasonable efforts to prevent removal and what alternatives to foster care did CHFS explore?
 4. What services did CHFS offer the parent(s) or family which would allow the child to return to or remain in the home, and did the family comply?
 5. Are additional orders or referrals needed for CASA, examinations, evaluations, or immediate services?
 6. What arrangements did CHFS make for visitation and contact with parents, siblings, and others if in the child's best interests?

7. What are the child's Education and Medical needs?

505. Voluntary Agreements for Removal

- A. Where the parties are before the Court, CHFS shall notify the Court of any voluntary removal or placement agreement and prevention plan providing for alternate custody arrangements at the first available court date. CHFS shall provide the Court with the terms of the agreement in writing and provide copies to the Court, GAL, counsel for the parent(s) or custodian, and the parties.
- B. Voluntary removal or placement agreements, and prevention plans providing for alternate custody arrangements **shall not** become Temporary Removal Orders until and unless approved by the Court and agreed upon by the custodial party in open court after notice to all parties and their representatives. If the custodial party is not in agreement or fails to appear at the court date then the Court shall not enter a Temporary Custody Order absent a hearing.

506. Appointment and Duties of GAL and other Court Appointed Counsel

- A. **Court Appointment of Counsel:** The Juvenile Clerk shall appoint GAL and counsel for parents or other parties (CACs) from voluntary lists of local attorneys licensed and in good standing with the Kentucky Bar Association. Any District Judge may remove attorneys from the appointment list for that Judge's division at the Judge's discretion.
 - 1) **Guardian ad Litem:** Immediately after a petition is filed, the Juvenile Clerk shall appoint a GAL to represent the child's best interests, and shall provide the appointed attorney notice of the appointment and the court date, and a copy of the petition.
 - 2) **Counsel for Person Accused of Dependency/ Neglect/Abuse:**
 - a. **Temporary Removal Hearing:** After the filing of an ECO, where the person from whose custody the child is removed is indigent and is not already represented by counsel, the Juvenile Clerk shall immediately appoint counsel for that party, and provide counsel with Notice of the appointment and court date, and a copy of the ECO, Affidavit and related Petition.

b. **All Other Actions:** At the first Court appearance, persons accused of dependency/neglect/abuse should be advised of their right to counsel and, if counsel is requested, should be provided an Affidavit of Indigency if one has not already been provided to the Court. If the party qualifies as indigent, the Court shall appoint counsel for the party who shall thereafter be informed of the appointment and provided copies of the Petition or pending action and notice of the next court date by the Juvenile Clerk.

3) **Counsel for Non-Accused Parent or Custodial Party:**

The Court may, in its discretion, for good cause and in the interest of justice, appoint counsel for an indigent parent or indigent party exercising custody of the child who has not been accused of dependency/abuse/neglect.

4) **Warning Order Attorney:** To provide notice to an absent parent, absent person exercising custody over the child, or absent person accused of dependency/neglect/abuse, the Court may appoint a Warning Order Attorney and, if the party can be located and makes an appearance, may then be appointed as counsel for that party in the discretion of the Court.

B. **Duties of Court Appointed Counsel (CAC):** The CAC represents the parent(s) or other person exercising custodial control or supervision (PECCS) from whom the child was removed and shall treat their clients with dignity and respect, and shall diligently represent the interest of their clients and provide competent representation in accordance with all applicable ethical rules, including return of phone calls and email, and communication with their client outside of the courtroom. The CAC has the same obligation to the client as retained counsel. See SCR 3.130 (6.2) and commentary.

C. **Duties of GAL:** The role and responsibility of the GAL is to represent, as an attorney, the child's best interests before the Court. The GAL shall be a full and active participant in the proceedings who independently investigates, assesses and advocates for the child's best interests. When representing a child who may be too young to understand or monitor court orders or complex legal proceedings, the implicit set of checks and balances operative in other types of representation is not likely to insure adequate representation. Therefore, detailed standards for the practice of Guardians ad Litem for Children are attached as

Appendix B. Attorneys accepting appointments as GAL for children shall adhere to these standards or may be removed from the appointment list in the discretion of the sitting Judge.

507. Duty of GAL and other CAC to Continue

After a GAL or other CAC accepts an appointment, representation shall continue through all stages of the d/n/a proceedings in District Court. If an attorney wishes to withdraw, notice must be served upon the client and all parties pursuant to RDDC 203C. If a case proceeds to Circuit Court for Termination of Parental Rights and subsequent Adoption, new appointment of counsel must be made. Whenever possible, for continuity and in the best interests of the child absent a showing otherwise, the same GAL who represented the child in District Court shall be appointed in the Circuit Court proceedings as well. If the parents of the child so desire and the attorney is willing to accept the appointment, the same CAC for the parent(s) may be appointed in the Circuit Court action. If the Circuit Court does not terminate parental rights and the case is returned to the District Court, the counsel and GAL who represented the parties in Circuit Court shall then be newly appointed to the District Court case.

508. Pretrial Conferences

The Judge may schedule a pretrial conference prior to an adjudication hearing. All counsel and parties should be present for the pretrial, including the County Attorney, and any CHFS worker involved with the case. Prior to the pretrial conference, CHFS shall provide the County Attorney with the names, addresses and expected testimony of witnesses so that the County Attorney may subpoena any witness whose presence is necessary. CHFS shall bring copies of all related medical records, photographs, and police reports to the pretrial conference, and other physical evidence should be described and made available for inspection by counsel if it cannot be brought to Court.

To facilitate discussion and resolution of the case and minimize adversarial conflict, the parties may utilize one of the pretrial conference checklists attached as Appendix C.

509. Adjudication Hearings

- A. The adjudication hearing shall be scheduled at the time of the temporary removal hearing or the first court appearance following removal when the parties are before the judge assigned the case. When scheduling the adjudication hearing in a case where the child has been removed from the home, the Court and all parties shall keep in mind the provisions of ASFA, directing that both the adjudication hearing *and* the disposition hearing be held no more than 45 days from the date of removal.

- B. An uncontested adjudication, in the form of an admission by the parties or their counsel, or an agreement or stipulation among the parties, may take place any time after the first court appearance, up to the date of the adjudication hearing. Where there is a stipulation to dependency, neglect or abuse, a finding or statement of specific facts recording the reason for CHFS intervention is required.

510. Dispositional Hearings

The permanency goal should be set forth in the dispositional report submitted to the Court by CHFS, and the Court shall make a ruling on the CHFS permanency plan.

511. Reviews

- A. Whether the child is in the care of the state or non-custodial parent or other person or agency, the Court shall conduct a review of the case no later than six (6) months from the time of removal of the child.
- B. At each post-disposition review, the Court shall make a determination regarding the permanency goal for a child who remains out of the home. No separate motion is required for this review to be undertaken.

512. Records and Transcripts

All proceedings, including child interviews, shall be recorded and made available to the parties and their counsel upon request in accordance with the provisions of FCRPP 27.

RULE 6 STATUS OFFENSE / DELINQUENCY

Daviess County is not a family court jurisdiction; therefore, status and public offenses and d/n/a petitions involving the same child are all assigned to the same District Judge. A child may be represented by both a GAL and a public defender or privately retained attorney. A child may have both a Department of Juvenile Justice probation officer and a CHFS social worker.

601. Timing

Whenever possible, all matters involving the same child, including where there are both active d/n/a and active delinquency/status petitions, should be set for the same day.

602. Coordination of Services

All service providers and legal representatives, whether working with the child and family in the status/delinquency case or the d/n/a case should consult together to eliminate confusion and duplication of services and to coordinate a plan for the child and family.

603. CDW Referral Form

When a juvenile is referred for services, such as community service hours, research projects, etc., that are to be monitored through the Court Designated Worker's (CDW) office, the Order of Referral for Services Through the Office of CDW form, attached as Appendix D of these rules, shall be utilized. Copies shall be made at the time of entry of the Order and provided to the child, the child's attorney and the child's guardian, as well as the CDW, forthwith.

604. Written Orders

The Court shall put into writing any pre-disposition orders, conditions of release, conditions of probation, or conditions of deferred prosecution and provide any juvenile offender, whether charged as a status offender or public offender, with a copy of those orders. The Juvenile Status Offender Order ("OJSO") AOC Form JV-36 may be used for this purpose no matter the type of offense involved, or a copy of the docket sheet with the conditions and orders set forth is sufficient.

RULE 7. MISCELLANEOUS RULES RELATING TO FAMILY LAW PRACTICE

701 DeFacto/Grandparent Custody Hearings to be Held in District Court

In accordance with Daviess Circuit Court Rules, all motions to determine de facto custodian status under the definition of KRS 403.270(1) or grandparent custody under KRS 620.027, and related issues involving children with pending d/n/a cases in Daviess District Court, shall be heard in the District Court with jurisdiction over the d/n/a action. The moving party shall bring such motion before the District Court, giving notice to all parties necessary in accordance with FCRPP 21. Once the District Court has entered an Order, any subsequent Motion for Modification should be brought before the Circuit Court.

702 DeFacto Hearings to be Held in Circuit Court

In accordance with RDCC 108(B)(1), all motions and petitions for custody by a person claiming to be a de facto custodian, which involve a child without a d/n/a case in Daviess District Court, shall be filed as a Circuit Court action and heard before the Domestic Relations Commissioner.

703. Custody hearings

The Daviess District Court has concurrent jurisdiction to make child custody and visitation determinations in permanent custody cases under KRS 620.027, and may do so if justice is so served.

RULE 8 TRAFFIC / CRIMINAL

801. General Schedule

Absent a holiday, closing of the courthouse, or absence of a Judge, Traffic and Criminal cases shall be scheduled on Mondays, Wednesdays and Fridays. Proceedings including pretrial conferences, preliminary hearings (also known as examining trials), guilty pleas, and prisoner cases shall be held on those days. Court shall be held on the first floor of the Judicial Center, Room 114.

802. Pre-Payable Offenses

Anyone charged with an offense that is designated pre-payable may appear in the Criminal Clerk's office, enter a plea of guilty, and pay the fine and costs specified without appearance in Court. Any attorney may appear and enter a plea of guilty and pay a fine and costs or receive the fine slip and due date on behalf of a client, provided the attorney has authority from the client to do so. Any person charged with an offense not pre-payable shall be required to appear to answer the charge in Court and may not be authorized by any person to pre-pay a fine by pleading guilty.

803. Arraignment Docket

On Tuesdays at 1p.m., absent a holiday, closing of the courthouse or absence of the scheduled Judge, an arraignment docket is scheduled. Pretrial conferences, preliminary hearings (also known as examining trials) and prisoner cases are not held on Tuesdays. Arraignments shall be held on the first floor of the Judicial Center, Room 114.

804. Preliminary Hearings (also known as Examining Trials)

Absent good cause, the Judge arraigning a Defendant shall direct the clerk to assign the case to a Division pursuant to RDDC 104D(4), and schedule the Defendant's next court appearance before that Division. When the Defendant is charged with a felony offense the next scheduled event shall be a preliminary hearing pursuant to RCr 3.10. Absent necessity, the preliminary hearing shall be scheduled no less than three (3) days after the arraignment to insure service of subpoena upon the witness(es). Unless a Defendant in custody appears with private counsel at arraignment, a Public Defender shall be

appointed for the Defendant to ensure representation at the preliminary hearing: if the Defendant is able to retain counsel before the preliminary hearing, the Public Defender appointment shall be withdrawn. If the case is held over to the Grand Jury, the Defendant shall not be assessed a Public Defender fee for the District Court appearance.

805. Motions

See RDDC 201. Motions to Suppress Evidence or Dismiss the case, and Motions for Contempt or Revocation of Probated Sentence where the issue is not merely failure to pay restitution or provide verification of community service or counseling shall not be heard on the regular Traffic and Criminal docket. Once the Motion is filed, the case may be placed on the regular docket by the moving party to schedule the hearing or the moving party may contact the Judge's office to schedule a specific date and time for the hearing on the Judge's calendar.

806. Determinations of Pretrial Release

Written Orders required pursuant to HB 463 may be made utilizing the form attached as APPENDIX E.

807. Bond Modification of Case Pending Before Grand Jury

Attorneys filing motions for modification or revocation of bond in cases pending before the grand jury shall be filed in the Division of District Court last assigned. Motions will be heard in accordance with RDDC 805.

RULE 9 PROBATE

901. Personal Identifiers

See RDDC 1302. Persons seeking appointment as Executor, Administrator, or Guardian shall provide their full name, date of birth and social security number to the Probate Clerk. The Probate Clerk shall place that information in a sealed envelope stapled to the inside front cover of the file. That information shall only be accessible by a Judge or Probate Clerk when necessary for service of a summons, subpoena or warrant upon the party. The form is attached as APPENDIX F.

902. Identification of Parents/Persons with Custody

In proceedings for Guardianship of a Minor Child or for Name Change of a Minor Child, the biological parents and their current or last known address shall be listed and notice provided unless they are deceased or parental rights have been terminated by Court Order, and those facts should be brought to the attention of the Judge by the petitioner. Petitioner should be prepared to show

proof of notice or have the Court date continued. Lack of involvement in the child's life does not excuse failure to list the parent or provide notice. The Court may appoint a Warning Order Attorney to provide notice at the expense of the Petitioner.

903. Contact Information

All Guardians/ Conservators/ Administrators/ Executors shall keep the Probate Clerk advised of any changes in address, phone number or other contact information so long as they serve in that position. The Probate Clerk shall use this information to notify the fiduciary of court dates and when filings are due.

904. Termination of Guardianship or Limited Guardianship or Conservatorship of Minor Children

When the guardian, conservator, parent or legal custodian of the child wishes to terminate the guardianship, notice shall be filed with the Court and served on all parties, and the Probate Clerk shall set the matter on the probate docket at which time the Judge shall address any objections to termination of Guardianship, and schedule or waive the final accounting.

905. Guardianship of Disabled Persons

A. Emergency Guardianship

- 1) The Petitioner shall provide the Probate Clerk with the name and address of Respondent; and the name, address, phone number, and relationship of all Respondent's living next of kin including spouse (whether living with Respondent or not), children, parents, and siblings. Notice of the Emergency Hearing shall be provided to these persons and the Respondent by the Probate Clerk no less than forty-eight (48) hours before the Hearing on the Petition.
- 2) When a Petition for Emergency Guardianship is received, the Probate Clerk shall immediately appoint a GAL for the Respondent and shall provide the GAL with Notice of the Appointment and the Hearing no less than forty-eight (48) hours before the Hearing.
- 3) When possible, using the phone numbers provided, the Judge's secretary shall give additional Notice of the Hearing to the GAL and all persons listed in the Petition.

- 4) When possible, the GAL shall attempt to contact the Respondent prior to the Hearing.
- 5) The Probate Clerk shall coordinate with the Judge to schedule the Hearing no more than seven (7) days from the filing of the Petition. Where necessary the hearing may be scheduled outside of the regular probate docket or heard by the Judge of another division due to holiday or the absence of the assigned Judge.

B. Limited Guardianship:

- 1) An Order Appointing a Limited Guardian for a disabled person is temporary and shall not be in effect for more than five (5) years.
- 2) Before the expiration of the Order, if the Limited Guardian feels continued Guardianship is necessary for the protection of the ward, the Limited Guardian shall file a Motion requesting an extension of the Order. The Motion shall be accompanied by an appropriate affidavit under KRS 387.610. The Probate Clerk shall set the Motion on the normal Probate Docket for the Judge to review and schedule any further proceedings as necessary.

906. Wills and Administration

- A. Persons seeking to act as Executor or Administrator of an estate are strongly encouraged to seek the assistance of counsel. The Probate Clerk cannot provide legal advice or assist in the preparation of documents.
- B. Petitioner seeking probate of a will or administration of an estate shall set forth in the Petition the names, addresses and ages of all heirs named in the will and all Decedent's heirs at law, and the Probate Clerk shall provide notice of the hearing to all persons named in the Petition.

907. Contempt

Failure of a Fiduciary to perform the duties required by statute or set forth in Court Order could result in a finding of Contempt by the Court. A Guardian failing to schedule Interdisciplinary Team appointments for the Ward, or any Fiduciary failing to file required reports or settlements or failing to appear before the Court when summonsed or failing to provide the Probate Clerk with a current address and contact information may be held in contempt and arrested, fined, or

required to perform community service. The Court, upon failure of the Fiduciary to file mandated reports or respond to the Court may also remove the Fiduciary and appoint a Public Administrator of the estate or a State Guardian for the ward.

RULE 10 CIVIL / SMALL CLAIMS

1001. Corporations Required to Appear by Counsel

Any corporation or partnership appearing as a party in a civil matter in District Court must identify itself as a corporation or partnership and must appear via an attorney licensed to practice law in the Commonwealth of Kentucky. Pursuant to SCR 3.020, any corporation or partnership appearing as a party in the small claims division may be represented by a person who is an officer of or who is regularly employed in a managerial capacity by the corporation or partnership.

1002. Forcible Detainers:

- a. **Non- URLTA Jurisdiction:** Under KRS 383.500, Daviess County is a non-Uniform Residential Landlord Tenant Act (non-URLTA) jurisdiction.
- b. The Landlord shall provide a copy of the Defendant's written lease agreement to the Court no later than at the time of hearing.
- c. Prior to filing a Forcible Detainer complaint, the landlord shall give the tenant in default notice of eviction pursuant to the terms of the lease agreement. When the lease agreement is oral, or the lease is silent or fails to specify a reasonable time for the tenant to vacate the premises, the tenant is to be provided thirty (30) days notice of eviction before the Forcible Detainer action can be filed.
- d. The notice requirements of KRS 383.560 must be met, and the filing of a forcible detainer complaint shall not be considered notice of eviction.

RULE 11 JURORS AND JURY TRIALS

1101. Jury Orientation

The Chief Judge of the Daviess District Court is responsible for conducting monthly Jury Orientation. All other matters relating to jury service are to be handled by the Judge presiding over the jury trial, or the Judge assigned as Jury Judge for the month.

1102. No Motions Heard on the Day of Trial

Jurors report to the courtroom fifteen minutes prior to the start of trial. Absent emergency or special leave from the Judge, no motion shall be scheduled on the day of trial.

1103. Notification of Cancellation

If the parties reach a settlement or plea agreement prior to the jury trial, the Court shall be immediately notified so the jury trial can be cancelled on the calendar, and notification given to the jurors.

RULE 12 INTERPRETER SERVICES

When an interpreter is needed, the appropriate division of the Daviess Circuit Court Clerk's Office shall be notified by the Judge, the County Attorney, CHFS Social Worker, counsel for the party, or the actual party. The Clerk shall make the appointment in accordance with AOC protocol and in the event scheduling is an issue shall notify the Court who shall reset the matter in order to allow for the appearance of the interpreter.

Unless unavoidable or notified by the Juvenile and Criminal Clerk that services are not needed for a specific day, a Spanish language interpreter shall always be available on Mondays, Wednesdays and Fridays for the Traffic/Criminal and Juvenile/Domestic dockets.

RULE 13 GENERAL MISCELLANEOUS

1301. Identification of Counsel or Party Required

Every pleading, motion and any other paper filed in the record by counsel or party shall contain the case number, typed or printed name, address, telephone number and e-mail address (if any) of the attorney or party signing the paper.

1302. Protection of Personal Identifiers

- A. Pleadings, documents, or exhibits filed in actions deemed confidential by statute need not be redacted, and any access to those files shall be governed by RDDC 405, KRS 610.340, KRS 202A.091, KRS 387.770, and other applicable statutes.
- B. In all other civil matters, excluding domestic violence proceedings, where material filed with the court contains personal identifiers, the parties shall comply with CR 7.03(1)(b) by filing one copy from

which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The Daviess Circuit Court Clerk shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by an attorney of record in the case, a judge of the Court or other authorized court personnel. Otherwise, access to the sealed documents shall be by specific court order only.

- C. In criminal matters, personal identifiers are contained on the cover of the file. Therefore, the Criminal Clerk shall maintain custody over the file. The Criminal Clerk shall bring the file to the courtroom for any court appearance to allow access by the Judge. Attorneys may view a file in the presence of the Criminal Clerk. When a file is sent to a Judge's office, the Criminal Clerk shall document the location of the file and when the file is returned. A Defendant may obtain a copy of his own file from the Criminal Clerk upon providing proof of identity and paying a fee for the copy. A third party may obtain information from the Criminal Clerk regarding the nature of the charges against a Defendant and the disposition of the case, but absent a court order, a third party shall not be allowed to view or obtain copies of the file and its contents. Where the Court issues such an order, unless the order indicates otherwise, the Criminal Clerk shall redact the Defendant's date of birth, social security number and address from any copies provided to the third party.

1303. Delivery or Electronic Distribution of Orders and Other Documents

- A. **Delivery:** Per CR 5.03, delivery of a copy within this rule means handing it to the attorney or to a party; or leaving it at the office of the attorney or party with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or sending it by electronic means if the attorney or a party consents in writing.
- B. **Electronic Service:** The attorney or a party consents to accept electronic service by filing and serving a notice that the attorney or party accepts electronic service. The notice must include the electronic notification address at which the attorney or party agrees to accept service. Service is complete upon mailing or electronic transmission, but electronic transmission is not effective if the serving party learns that it did not reach the person to be served. KY ST RCP Rule 5.02.

1304. Appointment Lists Maintained by the Daviess Circuit Court Clerk

- A. **General Eligibility for Appointment:** To be eligible for appointment by the Court as GAL, Counsel for Parent or Custodian, Warning Order Attorney or Public Administrator of an Estate, an attorney must be a licensed attorney in the Commonwealth of Kentucky in good standing with the Kentucky Bar Association, and have submitted his or her name and address and phone number to the Daviess Circuit Court Clerk for inclusion on any or all of the appointment lists maintained through the Daviess Circuit Court Clerk's Offices.
- B. **Voluntary:** Inclusion on any list is voluntary and at the discretion of the sitting Judge. In the event there are insufficient names on any list to provide for appointment, the Court may contact individual attorneys to request appointment or may notify the Daviess County Bar Association President who will consult with bar members and provide to the Chief Judge of the Daviess District Court either names of volunteers or a formula for appointment of counsel. The Chief District Court Judge shall then provide that information to the Daviess Circuit Court Clerk.
- C. When filing for fees, attorneys shall not bill for time spent billing.
- D. Any additional requirements are listed below:
 - 1) **Juvenile:** The Juvenile Clerk shall maintain two (2) lists for each Division of Daviess District Court, one for those attorneys seeking appointments as GAL and the other for attorneys seeking appointments as CAC or Warning Order Attorney in d/n/a cases. Attorneys may be included on both lists and may choose to accept appointments before any or all Divisions of Daviess District Court.

Attorneys accepting appointments as GAL agree to adhere to the Standards of Guardian ad Litem Practice attached as Appendix B. GAL shall provide proof of attendance at mandated training to the Juvenile Clerk who will keep the information with the Appointment List and make it available to any Judge upon request, and to the Chief District Court Judge every January for review of compliance.

Attorneys accepting appointments as CAC or Warning Order Attorney agree to render services diligently and promptly, make all court appearances for which they have received

notice, and file any necessary reports, motions or documentation in a timely manner.

- 2) **Paternity:** The Juvenile Clerk shall make appointments for GAL and Warning Order Attorneys from the lists maintained for appointment as CAC and GAL in juvenile cases, set forth above.
- 3) **Probate Court:** The Probate Clerk shall maintain two (2) lists which shall serve all Divisions of Daviess District Court: one for attorneys seeking appointments as Warning Order Attorneys, GAL for Respondents in proceedings pursuant to KRS Chapter 387, or GAL in other matters where the Court believes necessary to protect the interests of a minor or person believed to be incompetent; and one for attorneys accepting appointments as Public Administrator of Estates.

Attorneys accepting appointments as GAL agree to meet with their client when it is possible to do so, and under all circumstances to make a thorough and independent investigation and assessment of the Respondent's best interests.

When appointing a Public Administrator for an Estate the Court and/or other interested parties may review the list of counsel and select an attorney from that list, or it is within the discretion of the Court to appoint the Daviess County Sheriff as Public Administrator, or at the request of the parties to the estate proceeding the Court may contact an attorney not listed and seek that attorney's acceptance of an appointment to serve as Public Administrator.

- 4) All other matters arising in Juvenile, Domestic Violence, or Paternity Cases: Counsel or GAL should be appointed from the appropriate list for that Division of Daviess District Court.
- 5) All other matters arising in Civil or Probate Proceedings: GAL or Warning Order Attorney should be appointed from the lists maintained by the Probate Clerk.
- 6) The Circuit Court Clerk shall also maintain a lists for appointment in Circuit Court cases, to be established as directed by the Chief Circuit Judge or, in the absence of any Order, by the Circuit Clerk.

1305. Rotating Special Duty Schedule of the Daviess District Judges:

Special duties are described as follows and rotate on a month-to-month basis: (1) On-Call Judge – shall be available after hours, on holidays and weekends to sign search warrants, warrants of arrest, ECOs, EPOs, and involuntary hospitalization orders; and to address after hours matters relating to the detention of juveniles; (2) Jury Judge – shall review all juror information, requests for excuses from jury duty, and all other matters relating to jurors; (3) Day Judge – shall be available during office hours to sign search warrants, arrest warrants, juvenile pick-up orders, ECOs, EPOs, involuntary hospitalization orders, and criminal summonses issued by the county attorney; shall conduct any juvenile detention hearings which arise outside the regular juvenile docket; and shall preside over the Tuesday afternoon arraignment docket.

The schedule is attached as APPENDIX G to these Rules.

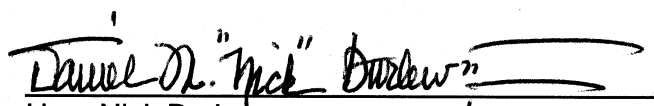
APPROVED BY:


Hon. Lisa Payne Jones
Daviess District Court, Div. I, Chief Judge

/Date 3/19/12


Hon. David Payne
Daviess District Court, Div. II

/Date 4-27-12


Hon. Nick Burlew
Daviess District Court, Div. III

/Date 3-28-2012

APPENDIX A

DOMESTIC VIOLENCE PROTOCOL
TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY
PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION
DOMESTIC VIOLENCE PROTOCOL
6th JUDICIAL CIRCUIT AND DISTRICT
DAVIESS COUNTY

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts. See also RDDC 5 for additional rules relating to Domestic Violence cases.

I. Uniform Protocol for Processing Cases

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence matters may be reassigned from the district court division to circuit court when there is a dissolution/custody proceeding pending.
- D. No jurisdiction shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.
- E. Domestic violence cases shall be reassigned or transferred to another circuit or district court under the following

circumstances: See RDDC 1D(iv)(c), where there is a recusal pursuant to KRS 26A.015, or when a Judge determines on the record that it is in the interest of justice or judicial economy to do so.

Consistent with FCRPP 12, when a case is transferred to another court, the emergency protective order shall continue and the summons shall be reissued by the transferring court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court receiving the transfer.

II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:
The Daviess Circuit Court Clerk or any of her officers in the Juvenile Division may both receive Petitions and administer oaths. The Office of Crime Victims' Advocacy may assist in the preparation of a Petition. Any Judge or notary public may also administer oaths, but the Petition itself and any Emergency Protective Order must still be received by the Juvenile Clerk or appropriate Circuit Division where a custody/dissolution exists.
 1. The necessary forms can be obtained through the office of the Juvenile Clerk. The Crime

Victims' Advocate can assist in preparing the forms. Crime Victims' Advocate offices are located in the Kirtley Annex behind the Holbrook Judicial Center, and can be contacted at (270) 685-4357.

2. The completed forms shall be presented to the office of the Juvenile Clerk. The Juvenile Clerk shall assign the case to a division of the Davless District Court according to the guidelines set forth in RDDC 104D(3) unless a custody/dissolution exists.

3. The Juvenile Clerk shall give copies of all documents to the Petitioner and shall notify law enforcement to serve Respondent or shall provide Petitioner an extra copy to be given to the law enforcement agency who will serve the Respondent.

B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

1. Persons seeking an EPO should contact law enforcement or emergency services. Law enforcement or emergency services shall contact the prosecutor on-call or, if not available, any prosecutor who can be reached, who shall have copies of all necessary forms and will assist Petitioner in preparing the documents and acknowledge affiant's signature and administer the oath.

2. The District Judge serving on-call duty, or such other Judge as

may be available in the event the on-call Judge cannot be reached, shall review the petition and, if an EPO is entered, shall set a hearing date. When reviewing the petition, the Judge shall administer the oath if such has not already been done. The signing Judge shall see that copies of the forms are provided to the Petitioner and to the law enforcement agency who will be serving Respondent.

3. Upon receipt of the documents, the Juvenile Clerk shall open a file and assign the case to the Division holding Juvenile Court on the date set for the hearing. If upon review, the Juvenile Clerk finds the case should be assigned to a different Division or Circuit, pursuant to RDDC 104D(3), the Juvenile Clerk shall, if practicable, cause an amended notice of hearing to be sent to the parties. If sending an amended notice of hearing is not possible, on the date of the hearing as originally set by the on-call Judge, the Juvenile Clerk shall notify the sitting Judge of the pre-existing or pending case and the sitting Judge may choose to transfer the case and reset the hearing if it serves the interests of justice to do so.

C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

The District Judge serving day duty unless that Judge is not present in the courthouse and then any available District Judge or Circuit Judge may review the Petition. If

the Judge reviewing the Petition learns there are related or pending matters before another Judge, the reviewing Judge may request that the Judge with more familiarity review the Petition.

D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

The District Judge serving night duty and if that Judge cannot be reached then any available District Judge or Circuit Judge may review the Petition. If the Judge reviewing the Petition learns there are related or pending matters before another Judge, the reviewing Judge may request that the Judge with more familiarity review the Petition..

E. Petitions will be reviewed within an hour of presentation to a Judge unless it is impossible due to the unavailability of a Judge.

F. **Scheduling:** All petitions shall be set for hearing no more than fourteen (14) days from the issuance of the Emergency Protective Order. At that time, parties should be present with evidence, necessary witnesses, and counsel if so desired. For lack of service or other good cause, the Judge may continue the hearing and re-issue the EPO, if necessary. The schedule for domestic violence hearings is as follows:

Domestic Violence Hearings are conducted routinely in each of the Divisions of Daviess District Court in conjunction with the Juvenile Docket held on Mondays, Wednesdays and Fridays. Where there is a holiday, or when a regular session of Juvenile Court has been cancelled, it may

be necessary for a Judge who is not assigned the case to conduct the hearing on that Judge's Juvenile day. When it is appropriate for the hearing to be held in Circuit Court, the Juvenile Clerk shall contact the Circuit Clerk for a hearing date within the statutory time frame and notify the parties and any counsel.

III. Contempt Proceedings

A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.

B. Petitioners seeking to initiate contempt proceedings should contact: The Daviess County Attorney's Office ("County Attorney") for explanation of remedies and possible criminal prosecution

C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.


D. Motions for Contempt shall be served upon the Respondent no less than five (5) days before the scheduled hearing.


E. Pursuant to FCRPP 11(2), the Court shall advise Respondent of his or her rights and, if Respondent cannot afford counsel, shall appoint a Public Defender. The Judge may reset the hearing for the appearance of the Public Defender or for Respondent to obtain counsel.

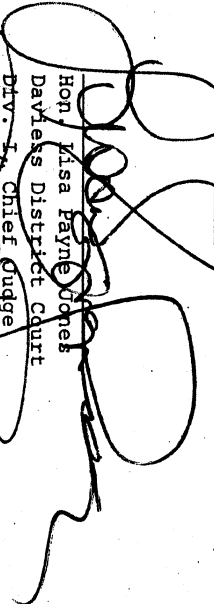
All general orders, forms, policies and procedures unique to this jurisdiction and relating to domestic violence are contained in the Local Rules of the Daviess District and Circuit Court or contained in this protocol. The standard AOC forms for Petition, EPO, Summons, DVO,

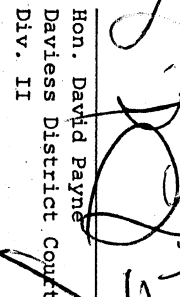
and Motions in Domestic Violence proceedings are utilized throughout this jurisdiction and can be obtained through the Daviess Circuit Court Clerk, the Juvenile Clerk, or downloaded from the AOC website at www.courts.ky.gov/forms.


The above protocol is adopted by all judges in the 6th Judicial Circuit and District this one 18 day of March, 2012.


Hon. Jay Wehrington
Daviess Circuit Court
Div. I, Chief Judge


Hon. Joseph Castlen
Daviess Circuit Court
Div. II


Hon. Lisa Payne Jones
Daviess District Court
Div. I, Chief Judge


Hon. David Payne
Daviess District Court
Div. II


Hon. Nick Burlew
Daviess District Court
Div. III

APPENDIX B

STANDARDS TO GOVERN THE PERFORMANCE OF GUARDIANS *AD LITEM* FOR CHILDREN

These standards apply to all attorneys serving as Guardians ad litem for children.

Many of the competencies required to represent children are the same as those required for many other types of litigation. There are skills, abilities and actions expected of attorneys in all cases such as conducting interviews, framing and evaluating pleadings, engaging in discovery techniques, thoroughly preparing for trial, and negotiating on behalf of a client. These skills are of equal importance to other types of civil cases such as labor, tort, contract or family law. The need for practices such as comprehensive client interviews is present in every case. Likewise attorneys involved in any form of litigation must make choices and determine strategic options. For example, the need to interview non-parties depends on the nature of the case and the litigator's goal. Hence, qualifying phrases like "as appropriate" or "in so far as possible" are found in several standards and commentaries.

Representing children, however, is also different from other forms of litigation. The importance of the dispositional process and the potential for court proceedings to affect the very nature of a family provide the basis for these distinctions. The long-term consequences to the child client make the role of a Guardian *ad litem* (GAL) as crucial at the dispositional stage as at any other phase of the case. These consequences demand full attention to the formulation and articulation of well-supported arguments and appropriate recommendations, as well as critical evaluation of plans proposed by others.

The GAL acts as an attorney and not a witness, which means that he or she should not be cross-examined and, more importantly, should not testify. The GAL should rely primarily on opening statements, presentation of evidence and closing arguments to present the salient information the GAL feels the court needs to make its decisions.

The implicit set of checks and balances operative in non-juvenile cases is generally not likely to work for children. In a civil action involving adults, the successful party knows when a judgment is paid or a court order is implemented. In proceedings involving children this may not be so; the child may be too young to understand or monitor orders, or the legal proceedings may be too complex for the child to understand. Thus, these standards incorporate provisions regarding communication with the child, and the implementation of orders and appeals.

Attorneys who serve as GALs are subject to the Rules of Professional Conduct promulgated by the Kentucky Supreme Court as they would be in any other case, except when the special duties of a GAL conflict with such rules. For example, an attorney would follow the general conflict rule (1.7) to determine if there would be a possible conflict of interest if the attorney served as GAL. But unlike the Rules for Professional Conduct as they apply to confidentiality, there

may be times when attorneys serving as a GAL must, in furtherance of their role as GAL, disclose information provided by the child to the court. A GAL appointed to represent siblings should be alert to potential conflicts and, when appropriate, request that the court appoint a separate GAL for each child.

The role and responsibility of the GAL is to represent, as an attorney, the child's best interests before the court. The GAL is a full and active participant in the proceedings who independently investigates, assesses and advocates for the child's best interests. Decision-making power resides with the court.

Standards Governing Performance

In fulfilling the duties of a Guardian *ad litem* (GAL), an attorney shall:

A. Attend training annually relating to laws governing dependency, neglect, abuse cases and/or the roles, responsibilities, and duties of Guardians ad Litem.

It is believed that all attorneys serving as GALs in d/n/a cases will benefit from basic training to achieve the goal of a well-trained pool of attorneys willing and able to serve as GALs.

B. Meet face-to-face and interview the child.

The first duty of the GAL is to establish a relationship with the child client, as an attorney would with any client. This interview should be conducted face-to-face at a time and place that allows the GAL to observe the child and ascertain: the child's wishes, the safety and adequacy of the child's current placement, and the need for further testing, evaluation or interim judicial relief. Such interviews are best conducted on a date prior to the first court appearance and at a location other than the courthouse. It is important to meet with the child in a private setting, such as the GAL's office, the child's home, school or placement, and away from the litigants so that the child can talk openly.

There should be sufficient time between the interview and court appearances for the GAL to fully analyze the information gleaned, take appropriate actions and formulate meaningful arguments and recommendations.

The content and direction of the interview should take into account the child's age, maturity and potential stress created by the circumstances of the case and prior interviews, especially in cases involving allegations of sexual or other abuse. In such cases, GALs should rely upon videotapes of forensic interviews or attend interviews of the child conducted by trained experts rather than conducting their own independent investigation and interviewing the child about the facts of their alleged victimization.

As appropriate, children should be encouraged to articulate their concerns and views. In custody and visitation cases, care should be taken so that the child never feels compelled to state a preference or choose between parents or placements. Where the GAL is appointed for children also accused of or

charged with a crime, the GAL should exercise caution when talking to the child about the circumstances of the offense and advise the child about the limitations on confidentiality that may apply.

Young children present a challenge, but the age and verbal ability of the child do not abrogate the responsibility to meet face-to-face with the child whenever possible. In meetings with young children, and with children with limited language abilities or those with disabilities, the GAL will rely much more heavily on observation. Conducting such meetings at the child's home or placement allows the GAL to observe the surroundings and the child's interactions with others, as well as to interview the child's caretaker.

If the child expresses wishes that are contrary to the GAL's assessment of the child's interests and welfare, the GAL **shall** inform the court of these wishes in addition to the GAL's recommendations and reasoning. If the child is uncooperative or appears to have been influenced by a parent or custodian, the GAL should inform the court of these circumstances.

A. Conduct an independent investigation in order to ascertain the facts of the case.

The GAL **shall** review any and all relevant records, which may include court, social service, medical, mental health, and school records, and consult with no less than three sources with knowledge of the case prior to each court appearance. The GAL should attach a copy of the AOC DNA-10 ORDER APPOINTING GUARDIAN AD LITEM, to any written request for records since it delineates the statutory authority for access to records.

The GAL should interview all persons with relevant knowledge of the child and the facts that gave rise to the allegations. Such other persons would include, for example, the child's parents, current caretakers including foster parents, an assigned Court-Appointed Special Advocate (CASA) worker, social worker, child care provider, clergy, neighbors, relatives, school personnel, and health and mental health providers. When the child is young, there is a greater need to seek independent sources of information and obtain verification of salient facts. Such interviews are best conducted on a date prior to the court appearances and at a location other than the courthouse.

GALs should communicate their role and responsibilities clearly to the parent's and/or other parties' attorneys including the GAL's legal status in the proceeding and responsibility to participate fully to protect the child's interests and express the child's wishes.

Where the GAL is appointed for children also accused of or charged with a crime, the GAL should contact the child's defense attorney, if one has been appointed or retained.

There should be sufficient time between the interview and court appearances for the GAL to fully analyze the information gleaned, formulate a meaningful strategy, and take appropriate actions such as issuing subpoenas, filing motions for temporary or protective relief or for the child to receive appropriate services and evaluations. If the home environment is at issue,

whenever possible, the GAL should visit the child's home and any proposed alternative placement. In the alternative, the GAL should review all available evidence in order to develop an informed assessment as to the best interest of the child.

GALs should independently evaluate all allegations of child abuse or neglect, or of risk to the child's safety or welfare, including but not limited to physical or mental abuse, sexual abuse, lack of supervision, educational neglect, and exposure of the child to domestic violence or substance abuse, regardless of whether such abuse or neglect or risk is identified in the parties' pleadings.

When, in the course of representing the child, the GAL becomes aware of child abuse or neglect, or of risk to the child's safety or welfare that is not identified in any existing pleadings before the Court, the GAL shall take appropriate action to report such information, as set forth in KRS 620.030. Because of the unique nature of the child / Guardian ad Litem relationship, this statutory duty overrides any duty of confidentiality toward the child client.

C. Advise the child, in terms the child can understand, of the nature of all proceedings, the child's rights, the role and responsibilities of the GAL, the court process and the possible consequences of the legal action.

The GAL shall make every effort to ensure that the child understands, by using language appropriate to the child's age and verbal abilities, the nature of the proceedings, the consequences which may result, the possibility of future modifications, the attorney's responsibilities as a GAL, and how to contact the GAL. If the child has significant emotional problems, the GAL should consult with a mental health specialist or the child's therapist in order to determine the best manner to present this information.

Where the GAL is appointed for a child also accused of or charged with a crime, the GAL should explain how the GAL's role and responsibilities differ from that of the child's defense attorney and advise the child about the limitations on confidentiality that may apply.

The GAL must inform the child that there may be circumstances when confidentiality will apply to communication between the child and GAL, and circumstances when it may not. The GAL may use information received from the child to further the child's best interest. For example, the GAL may learn from the child that a custodian is taking illegal drugs and may use that information to request that the court order drug testing of the custodian.

The GAL should keep the child apprised of any developments in the case and actions of the court or parties involved. The GAL shall maintain meaningful contact with the child throughout the term of the case to monitor the child's welfare and the parties' compliance with court orders.

D. Participate, as appropriate, in pre-trial conferences, mediation, negotiations and any interested party review or family team meetings.

The GAL shall attend all court dates relating to the child if notice has been provided. The GAL should be involved in all Court appearances relating to the case, pre-trial and case planning conferences, agency and Court reviews of the case, Interested Party Reviews, and mediation. Additionally, the GAL should take any action necessary to attempt to resolve the case in the least adversarial manner possible; however, a GAL should clarify, when necessary, that he or she is not acting as a mediator.

The GAL's role in such meetings is to represent and advocate for the best interests of the child. As a general rule, the GAL should encourage settlements. In cases where the GAL reasonably believes that a proposed agreement, disposition, permanency goal, prevention plan, or case plan would be contrary to the welfare of the child, the GAL should first discuss these concerns with the parties and their counsel. If these concerns are not addressed, the GAL should bring the facts that led to the concerns to the Court's attention during the hearing or by filing written objections. Any proposal which is deleterious to the child should be opposed by the GAL despite the agreement of the other parties.

E. Ensure the child's attendance or participation at all proceedings where the child's attendance would be appropriate and/or mandated.

The GAL must inform the child of all court dates and, in so far as possible, the GAL should assure the meaningful participation of the child in all phases of the proceedings, which would include attendance at appropriate court hearings.

The GAL should consult the child, caretaker, therapist and any other relevant individuals to determine the appropriateness of the child's attendance at a hearing. A decision to exclude the child from a hearing should be made on a case-by-case basis. In making this determination, the GAL should consider the age, maturity and desires of the child; the purpose of the hearing; the advice of those consulted; and the potential risk of trauma to the child evoked by such attendance.

F. Appear in Court on the dates and times scheduled for hearings prepared to fully and diligently represent the child's interests.

As in any case, the GAL is expected to act as an advocate for the child client. This demands attendance at all hearings with the intention of presenting a well formulated position based on the facts. This position should be supported by the GAL's independent investigation, and through the development of a theory and strategy for the case. The GAL should prepare, present and cross-examine witnesses, offer exhibits, and provide independent evidence as necessary. Although the child's position may overlap positions of other parties such as the parents, the GAL should be prepared to participate fully in every hearing and not merely defer to or endorse the positions of other parties.

The GAL acts as an advocate and uses every attorney skill appropriate to further a result favorable to the child's best interest.

A. Prepare the child to testify, when necessary and appropriate, in accord with the child's interest and welfare.

The GAL should determine whether to call the child as a witness based on consideration of the child's need or desire to testify, developmental and verbal capabilities of the child and the child's ability to withstand cross-examination.

For some children testifying is therapeutic and empowering, while for others it may be very traumatic. The GAL must determine the possible benefits and repercussions of testifying and the necessity of the child's direct testimony. The GAL shall consult a mental health specialist or therapist working with the child, if there is one, to assist in evaluating whether testifying will cause trauma to the child. Consideration should also be given to the availability of other evidence or hearsay exceptions that may substitute for direct testimony.

If the child does not wish to testify or would, in the GAL's opinion, be harmed by being forced to testify, the GAL should seek an agreement of the parties not to call the child as a witness or utilize other remedies such as an order from the court to limit the scope or circumstances of the testimony.

If the child is compelled to testify, the GAL should seek to minimize the adverse consequences by seeking appropriate accommodations as allowed by law. The GAL should prepare the child for testimony by explaining the nature and purpose of the proceeding and the use or disclosure that may be made of the information that the child provides during the proceeding.

H. Provide the court sufficient information, including specific recommendations for court action, based on the findings of the interviews and independent investigation.

The GAL is obligated to assure that all facts relevant to the case, available dispositional remedies and possible court orders are presented to the Court. The GAL's arguments to the Court should address every appropriate aspect of the litigation including the following: analysis of any allegations of abuse, neglect or risk; analysis of factors to be considered in a determination related to custody and visitation; placement of the child; services to be made available to the child and family; and any other orders the GAL deems to be in the child's best interest. Recommendations for placements outside the home should take into consideration the availability and appropriateness of placement with relatives or friends, parental visitation and keeping a sibling group together.

The GAL's arguments should address any plans presented by other parties or agencies such as the Cabinet for Health and Family Services, CASA, therapists, CATS, and TAP. A summary of the GAL's findings with recommendations and the basis for those recommendations shall be presented to the Court no later than the dispositional hearing. This summary may be

written or oral. If written, copies of the summary should be provided to the other parties and their counsel.

In any out of home placement, permanency planning, and Interested Party Review proceedings, the GAL should consult with the child about the proposed plans and explore any alternatives the GAL believes are more appropriate. If the GAL disagrees with such plans, the Court should be advised of this disagreement and the reasons.

I. Communicate, coordinate and maintain a professional working relationship with all parties.

Whenever it is appropriate to the child's needs and consistent with the direction of the court, the GAL should attend all meetings or hearings involving legal, educational and therapeutic issues specifically related to the case. These would include case planning conferences, Individualized Education Plan (IEP) meetings, school disciplinary or other educational meetings, and out of care home reviews. The GAL can present the child's perspective, gather information necessary to proper representation, and potentially achieve a resolution of all or some issues of the case at such meetings.

The GAL should contact any CASA volunteer assigned to the case and coordinate all aspects of the investigation with the CASA volunteer. Such volunteers can offer significant information and assistance to the GAL. Appropriate communication should be maintained between the GAL and all agencies and professionals involved in the case.

J. File appropriate petitions, motions, pleadings, briefs, and appeals on behalf of the child.

The GAL should make appropriate motions, including motions *in limine* and evidentiary objections, to advance the child's best interest in Court and during other proceedings. When necessary, the GAL should file briefs in support of legal issues. The GAL should promptly file a show cause against a party who is not following a court order or a motion to compel the Cabinet for Health and Family Services to provide services if the GAL believes the Cabinet is not making reasonable efforts towards reunification as required by law.

If the GAL believes the Court's determination is contrary to the child's best interest, after considering the wishes of the child, a notice of appeal should be filed and measures taken to assure that the appeal is perfected expeditiously. The GAL should file any appropriate pleadings on behalf of the child, including responses to pleadings of other parties.

K. Advise the child, in terms the child can understand, of the court's decision and its consequences for the child and others in the child's life.

The GAL should review all orders to ensure they conform to the Court's verbal orders and statutorily required findings and notices. The GAL shall

discuss all such orders and their consequences with the child, if the child is old enough to comprehend. The child, and any person exercising custodial control and supervision of the child (including foster parents) are entitled to understand what the Court has done and what that means to the child. The GAL should explain whether the order may be modified or whether the actions of the parties may affect how the order is carried out. For example, an order may permit an agency to return the child to the parents if certain goals are accomplished.

The American Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases, approved by the American Bar Association House of Delegates, February 5, 1996; American Bar Association Family Law Section Standards of Practice for Lawyers Representing Children in Custody Cases, Committee final draft approved April 24, 2003, and approved by the Section Council on May 2, 2003; The New York State Bar Association Committee on Children and the Law: Law Guardian Representation Standards, Volume II, Custody Cases, November 1999; Representing Children: Standards for Attorneys and Guardians Ad Litem in Custody and Visitation Proceedings, American Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases (NACC Revised Version), National Association of Counsel for Children, February 1996; American Academy of Matrimonial Lawyers, 1995; Richmond Juvenile and Domestic Relations District Court Guardian ad Litem Standards; and The 2003 Guardian Ad Litem Standards of the Commonwealth of Virginia were heavily relied upon in the development of these standards.

APPENDIX C-1

PRETRIAL CONFERENCE CHECKLISTS

**PRE-HEARING/PRETRIAL
CONFERENCE CHECKLIST
CHILD(REN) OUT OF HOME**

Case No. _____
Daviness District Court Div. _____
Date _____

In Re: THE INTEREST OF _____

_____, A CHILD

This case is set today for: ☐ PTC ☐ AH ☐ REV ☐

Other _____

PARTIES PRESENT

☐ Mother ☐ Father/Putative Father ☐ Child(ren) _____

☐ Mother's Attorney ☐ Father's Attorney ☐ GAL ☐ County Attorney ☐ Investigating SW

☐ Ongoing SW ☐ Names/Relationships of Others Present _____

DUE PROCESS

The Petition alleges: ☐ Dependency ☐ Neglect ☐ Abuse

Who was given Notice of this matter?

☐ Mother ☐ Father/Putative Father ☐ Alleged Perpetrator(s) ☐ Child(ren) ☐ Sibling(s)

☐ Other Family Members _____

☐ Other Friends of Family _____

☐ Other Service Providers _____

☐ Others/Witnesses _____

☐ The Parent(s)/Guardian advised of the allegations and their rights.

☐ The Parent(s)/Guardian provided an Affidavit of Indigency

Counsel Present: ☐ Yes ☐ NO If Not, Why? _____

☐ Permanency Timelines have been explained to the parents

CURRENT CUSTODY

Date Child(ren) went into OOHC: _____ ☐ By Court Order ☐ By
Agreement or Prevention Plan

Children Placed Together ☐ N/A ☐ Yes ☐ No If No, Why Not? _____

☐ State Custody ☐ Relative/Other: _____

Are there other possible placements which can be investigated? ☐ Yes ☐ No If Yes then
List: _____

REASONABLE EFFORTS

Status of CHFS investigation into circumstances leading to the filing of Petition?

☐ Complete ☐ Pending

If investigation is still pending, Why and When is it expected to be completed?

☐ Services/Reasonable Efforts provided to family:

☐ No services were provided to family because:

☐ Family is utilizing the following services:

☐ Family not utilizing services because:

☐ CASA/IMPACT/Other agencies or service providers working with family:

PLACEMENT

Child(ren) can return home today: ☐ Yes ☐ No If Yes, have the parents, children, foster parents, school or day care provider all been made aware of this?

If No, what is/are the specific safety concern(s) which prevent return of the child(ren) today?

Placement/Custody is being changed today: ☐ Yes ☐ No If Yes, What is the change?

If Yes, have the parents, children, foster parents, school or day care provider all been made aware of this?

If No, what is/are the specific safety concern(s) which prevent return of the child(ren) today?

VISITATION/CONTACT

Parents Receiving Visits: ☐ Mother ☐ Father If So, how often?

Mother:

Father:

☐ Supervised Visitation Not Required ☐ Supervision Required: ☐ Mother ☐ Father
☐ Visits supervised by CHFS ☐ Visits supervised by other

Visits should remain supervised until _____

Others who could supervise
visitation _____

☐ CHFS will investigate ☐ CHFS has found the above unsuitable to supervise visitation
because: _____

_____ Parents not receiving visits:
Parents have Phone/Other Contact With Child? ☐ Mother ☐ Father
If Not, this can be arranged by _____

Phone/other contact with the child is not recommended because: _____

Sibling Visitation ☐ N/A ☐ Yes ☐ No

If Yes, how often? _____

If No, why Not? _____

Should sibling visitation be changed? _____

Siblings have Phone/Other Contact? ☐ N/A ☐ Yes ☐ No If No, Why Not? _____

Should sibling contact be changed? _____

Other friends/family members are receiving visitation or contact? ☐ Yes ☐ No
If Yes, Who, When and What are the arrangements? _____

Are there friends/family members of the child(ren) who should be allowed contact or visitation? _____

Can this be arranged? _____

Is there anything from home the child needs to be more comfortable? ☐ Yes ☐ No
If Yes, what is the item and can this be arranged? _____

Did child change schools/day care due to removal? ☐ Yes ☐ No
If yes, which child(ren) and what has been done to ease the transition: _____

Activities/Routine of child prior to removal: _____

The following activities/routine have been or can be continued _____

The following activities/routine were discontinued

Can arrangements be made to allow child(ren) to continue these activities?

GUARDIAN AD LITEM

Guardian Ad Litem has had contact with the child(ren): ☐ Yes ☐ No If No, Why Not?

Has the GAL spoken to the child's caregiver? ☐ Yes ☐ No If No, Why Not?

☐ The GAL has spoken to the following individuals regarding the child(ren) since the last court date:

☐ Were all parties contacted by the GAL cooperative? ☐ Yes ☐ No

If No, what problems did the GAL encounter and how can this be remedied?

Concerns/Wishes expressed the Child(ren) or others on their behalf:

If the child(ren) is not in court today, did he/she wish to be present? ☐ Yes ☐ No

If Yes, Why is he/she not present?

If Yes, Should today's matter be rescheduled so the child(ren) can be present? ☐ Yes ☐ No

What arrangements will be made so the child(ren) will be present at future court dates?

If No, did the child(ren) provide any statement or letter they wished the GAL to provide to the Court? ☐ Yes ☐ No

If the child(ren) is not present in court today who will explain today's proceedings to the child and when?

STIPULATIONS/FURTHER PROCEEDINGS

After review of the Petition, there is a stipulation to the following: ☐ DEP ☐ EG ☐ AB

☐ Dismissal

☐ AND/OR there is a stipulation to the following facts:

The County Attorney Recommends that this matter be reset for: ☐ PTC ☐ AH ☐ DISPO

☐ REV

Are medical records/mental health records relevant to this proceeding? ☐ Yes ☐ No

If Yes, are those records in the possession of the County Attorney or the Social Worker? ☐ Yes

☐ No

Are those records certified? ☐ Yes ☐ No If No, have certified copies been requested? ☐ Yes

☐ No

If Yes, when will the certified records be available? _____

If No, why not: _____

Have copies been/Will copies be provided to parent(s)/Guardian or their attorney?

☐ Yes ☐ No

Have copies been/Will copies be provided to the GAL? ☐ Yes ☐ No

Does County Attorney have names and addresses of witnesses from Social Worker?

☐ Yes ☐ No

If No, that information will be provided no later than: _____

If the matter is to be set for AH, have witness lists been exchanged? ☐ Yes ☐ No

If No, this will be done no later than: _____

Do the attorneys anticipate any prehearing Motions? ☐ Yes ☐ No

If Yes, type of Motion? _____

How long is the AH expected to last? _____

County Attorney

CHFS Representative

Guardian Ad Litem for the child

Mother

Father

[Mother's Attorney]

[Father's Attorney]

Person Exercising Custodial Care

[PECC's Attorney]

APPENDIX C-2

PREHEARING CHECKLIST

**PRE-HEARING/PRETRIAL
CONFERENCE CHECKLIST
CHILD(REN) IN HOME**

Case No. _____
Daviess District Court Div. _____
Date _____

In Re: THE INTEREST OF _____, A CHILD

This case is set today for: ☐ PTC ☐ AH ☐ REV ☐

Other _____

PARTIES PRESENT

☐ Mother ☐ Father/Putative Father ☐ Child(ren) _____

☐ Mother's Attorney ☐ Father's Attorney ☐ GAL ☐ County Attorney ☐

Investigating SW ☐ Ongoing SW

☐ Names/Relationships of Others Present _____

DUE PROCESS

The Petition alleges: ☐ Dependency ☐ Neglect ☐ Abuse

Who was given Notice of this matter?

☐ Mother ☐ Father/Putative Father ☐ Alleged Perpetrator(s) ☐ Child(ren)

☐ Sibling(s) ☐ Other Family Members _____

☐ Other Friends of Family _____

☐ Other Service Providers _____

☐ Others/Witnesses _____

☐ The Parent(s)/Guardian has been advised of the allegations and their rights.

☐ The Parent(s)/Guardian have been provided an Affidavit of Indigency

Counsel Present: ☐ Yes ☐ NO If Not, Why?

REASONABLE EFFORTS

Status of CHFS investigation into circumstances leading to the filing of Petition?

☐ Complete ☐ Pending

If investigation is still pending, Why and When is it expected to be completed?

☐ Services/Reasonable Efforts provided to family:

☐ No services were provided to family because:

☐ Family is utilizing the following services:

☐ Family not utilizing services because:

☐ CASA/IMPACT/Other agencies or service providers working with family:

GUARDIAN AD LITEM

Guardian Ad Litem has had contact with the child(ren): ☐ Yes ☐ No If No, Why Not? _____

Has the GAL spoken to the child's caregiver? ☐ Yes ☐ No If No, Why Not? _____

☐ The GAL has spoken to the following individuals regarding the child(ren) since the last court date: _____

☐ Were all parties contacted by the GAL cooperative? ☐ Yes ☐ No
If No, what problems did the GAL encounter and how can this be remedied? _____

Concerns/Wishes expressed the Child(ren) or others on their behalf:

If the child(ren) is not in court today, did he/she wish to be present? ☐ Yes ☐ No If Yes, Why is he/she not present? _____

If Yes, Should today's matter be rescheduled so the child(ren) can be present?

☐ Yes ☐ No

What arrangements will be made so the child(ren) will be present at future court dates?

If No, did the child(ren) provide any statement or letter they wished the GAL to provide to the Court? ☐ Yes ☐ No

If the child(ren) is not present in court today who will explain today's proceedings to the child and when? _____

STIPULATIONS/FURTHER PROCEEDINGS

After review of the Petition, there is a stipulation to the following: ☐ DEP ☐ NEG

☐ AB ☐ Dismissal

☐ AND/OR there is a stipulation to the following facts:

The County Attorney Recommends that this matter be reset for: ☐ PTC ☐ AH

☐ DISPO ☐ REV

Are medical records/mental health records relevant to this proceeding? ☐ Yes ☐ No

If Yes, are those records in the possession of the County Attorney or the Social Worker?

☐ Yes ☐ No

Are those records certified? ☐ Yes ☐ No

If No, have certified copies been requested? ☐ Yes ☐ No

If Yes, when will the certified records be available? _____

If No, why not: _____

Have copies been/Will copies be provided to parent(s)/Guardian or their attorney?

☐ Yes ☐ No

Have copies been/Will copies be provided to the GAL? ☐ Yes ☐ No

Does County Attorney have names and addresses of witnesses from Social Worker?

☐ Yes ☐ No

If No, that information will be provided no later than: _____

If the matter is to be set for AH, have witness lists been exchanged? ☐ Yes ☐ No

If No, this will be done no later than: _____

Do the attorneys anticipate any prehearing Motions? ☐ Yes ☐ No

If Yes, type of Motion? _____

How long is the AH expected to last? _____

County Attorney

CHFS Representative

Guardian Ad Litem for the child

Mother

Father

Mother's attorney

Father's attorney

APPENDIX D
COURT DESIGNATED WORKER REFERRAL
COMMONWEALTH OF KENTUCKY
DAVIESS DISTRICT COURT
DIVISION _____

CASE NO. _____

IN RE: _____

ORDER OF REFERRAL FOR SERVICES THROUGH THE OFFICE OF CDW

This matter having come before the Court, the following individual is referred for services through the office of the CDW as set forth below:

(Name) _____, is a juvenile before the Court on a charge/charges of _____

The above juvenile resides with (parent, parents, guardian) _____ at the following address _____

_____ and who may be contacted at the following telephone numbers (home) _____; (work) _____; (cell) _____; (other) _____.

Services ordered: _____ Ankle Monitor _____ Hrs. of Community Service
_____ Tobacco Education Group
_____ Summer Program (high school age)
_____ Winter Camp (boys only, age 12 to 14)
_____ Learning Project(s) relating to (circle) assault, bullying, shoplifting, truancy, other _____
_____ Other: _____

The above named child and/or parent/guardian shall contact the Office of the CDW (circle) IMMEDIATELY/ within _____ business days, or be subject to contempt or other consequences deemed appropriate by the Court.

The Court shall be informed of noncompliance and both child and/or parent/guardian could be held in contempt and subject to the return of case to Court for additional penalties.

Failure to keep the Office of the CDW informed of the address and whereabouts of the child and any change in contact information can be grounds for contempt as well.

SO ORDERED this the _____ day of _____, _____.

Judge

Juvenile

Parent(s)/Guardian

County Attorney

Public Defender/Attorney for Child

cc: Court, CDW, Juvenile, Parent/Guardian, Child's Attorney, County Attorney

APPENDIX E
HB 463: WRITTEN FINDINGS RELATING TO DENIAL OF PRETRIAL
RELEASE

COMMONWEALTH OF KENTUCKY
DAVIESS DISTRICT/CIRCUIT COURT
DIVISION ____

CASE NO: _____

DEFENDANT'S NAME: _____

WRITTEN FINDINGS REGARDING BOND

Max Bond Limit Applies: Y N

CASH BOND AMOUNT: _____ (Conditions set separately)

The Court hereby finds that the statutory maximum or unsecured bond is not required because:

- _____ 1. The Defendant is charged with a felony in the above-styled case.
- _____ 2. The charge in the above-styled case involves physical injury or sexual contact.
- _____ 3. The Defendant has not been verified.
- _____ 4. The Defendant is assessed at High Risk.
- _____ 5. The Defendant is a flight risk due to: _____

- _____ 6. The Defendant is a danger to others due to: _____

- _____ 7. The Defendant is a danger to himself due to: (Presumptive Probation Cases)

Bail Credit Applies: Y N

The Court hereby finds that the Defendant is not entitled to bail credit because:

- _____ 1. The Defendant has not been verified.
- _____ 2. The Defendant is assessed at High Risk.
- _____ 3. The charge in the above-styled case is a felony AND the Defendant has been adjudicated guilty of a felony sex offense pursuant to KRS Chapter 510, 529.100, 530.020, 530.064(1)(a), or 531.310.*
- _____ 4. The Defendant is classified as a violent offender pursuant to KRS 439.3401.**
- _____ 5. The Defendant is a flight risk (reasons stated above).
- _____ 6. The Defendant is a danger to others (reasons stated above).

Judge

Pretrial Officer

Date Set

*Felony offenses under KRS Chapter 510 include Rape, Sodomy, Sexual Abuse 1st Degree, Electronic Solicitation of a Minor for Sexual Activity, the third or subsequent offense of any misdemeanor under this

chapter is also a felony; KRS 529.100 is Human Trafficking; KRS 530.020 is Incest; KRS 530.064(1)(a) is Unlawful Transaction with a Minor/Illegal Sexual Activity; KRS 531.310 is Use of a Minor in a Sexual Performance.

****A Violent Offender has been convicted of or pled guilty to a Capital Offense, a Class A Felony, a Class B felony involving death or serious physical injury to the victim, a felony under KRS Chapter 510, the attempt to commit a felony under KRS Chapter 510, Use of a Minor in a Sexual Performance, Promoting a Sexual Performance by a Minor, Unlawful Transaction with a Minor 1st Degree/Illegal Sexual Activity, Human Trafficking of a Minor for Commercial Sexual Activity, Criminal Abuse 1st Degree, Burglary 1st Degree where the Defendant was also charged and convicted of assault or attempted assault or kidnapping, Robbery 1st Degree.**

APPENDIX F

PERSONAL IDENTIFIER FORM FOR USE IN FIDUCIARY APPOINTMENTS

CASE NO: _____

STYLE OF CASE: _____

NAME OF FIDUCIARY: _____
First Middle Last

DATE OF BIRTH: _____

SOCIAL SECURITY NUMBER: _____

I understand that this information is provided for use of the Court only, and will otherwise be sealed in the file. Specifically it may be used by the Court to access criminal records which may lead to my location if I have failed to keep the Court informed of my address and contact information. The information can also be utilized by the Court to issue a warrant for my arrest if I fail to appear before the Court or to perform my duties as a Fiduciary in the above styled case.

If I provide false information, I understand the Court may remove me as Fiduciary and issue a warrant for my arrest on grounds of contempt.

Signature Date

APPENDIX G
SPECIAL DUTY SCHEDULE

MONTH	Div. I	Div. II	Div. III
<u>January</u>	On-Call	Day	Jury
<u>February</u>	Jury	On-Call	Day
<u>March</u>	Day	Jury	On-Call
<u>April</u>	On-Call	Day	Jury
<u>May</u>	Jury	On-Call	Day
<u>June</u>	Day	Jury	On-Call
<u>July</u>	On-Call	Day	Jury
<u>August</u>	Jury	On-Call	Day
<u>September</u>	Day	Jury	On-Call
<u>October</u>	On-Call	Day	Jury
<u>November</u>	Jury	On-Call	Day
<u>December</u>	Day	Jury	On-Call